

#### **MEMORANDUM**

Agenda Item No. 8(L)(1)

TO:

FROM:

Honorable Chairman Joe A. Martinez

DATE:

April 3, 2012

R. A. Cuevas, Jr.

County Attorney

and Members, Board of County Commissioners

**SUBJECT:** 

Resolution authorizing the conveyance

of non-exclusive easements to Comcast

of Miami, Inc.

The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Co-Prime Sponsors Vice Chairwoman Audrey M. Edmonson and Commissioner Jean Monestime.

R. A. Chevas, Jr. County Attorney

RAC/up

### Memorandum GOUNTY

Date:

April 3, 2012

To:

Honorable Chairman Joe A. Martinez

and Members, Board of County Commissioners

From:

Carlos A. Gimenez

Mayor

Subject:

Resolution Authorizing the Conveyance of Non-exclusive Easements to Comcast of Miami, Inc., for the Construction, Operation, Maintenance, Inspection and Removal of Broadband Communications System Along Specified Easements for

the HOPE VI-Phase II Development

#### Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the conveyance of non-exclusive easements to Comcast of Miami, Inc., to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time a broadband communications system referred to as "Company Wiring" around and within the specified easements for the HOPE VI-Phase II project sites as noted on attached easement agreements. These easements are necessary to provide utilities to the new development Northpark at Scott-Carver.

#### Scope

The extent of each easement is more specifically noted on each attached non-exclusive easement agreement located generally at the intersection of NW 75th Street and NW 22nd Avenue in conjunction with the HOPE VI redevelopment project. The folios contained in the attached easements and the corresponding Commission districts are provided below:

Folio	District	Folio	District
30-3110-079-0010	3	30-3110-081-0010	2
30-3110-079-0020	3	30-3110-081-0020	3
30-3110-079-0030	3	30-3110-081-0030	2
30-3110-080-0010	3	30-3110-081-0040	2
30-3110-080-0020	3	30-3110-081-0050	3
30-3110-080-0030	3	30-3110-081-0060	2

#### Fiscal Impact/Funding Source

Approval of this resolution will not create a fiscal impact to the County.

#### Track Record/Monitor

This project will be monitored by Jorge R. Cibran, Director of Facilities & Development for Public Housing and Community Development (PHCD)

Honorable Joe A. Martinez and Members, Board of County Commissioners Page 2

#### **Background**

Comcast of Miami, Inc. has requested easements as delineated on attachments in order to provide utility requirements to the new HOPE VI-Phase II development. PHCD has no objection to these proposed locations.

The HOPE VI redevelopment project was made possible by the U.S. Housing and Urban Development (HUD) 1999 grant, which has been leveraged with other funding sources to facilitate the financial viability of the project.

Phase II of the redevelopment effort was started immediately after the execution of a Master Development Agreement (MDA) with the HOPE VI-Phase II developer, McCormack Baron Salazar, Inc. (MBS) in December 2008, and is anticipated to be completed by the end of 2012. A total of 354 family rental units are planned for this phase, of which 177 are public housing units, 107 are low and moderate income units and 70 are market-rate units.

Attachments\_

**Deputy Mayor** 

то:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	DATE:	April 3, 2012	
FROM:	R. A. Cuevas, Jr. County Attorney	SUBJECT:	Agenda Item No.	8(L)(1
. P	lease note any items checked.	·		
	"3-Day Rule" for committees applicable it	f raised		
	6 weeks required between first reading an	d public hea	ring	
	4 weeks notification to municipal officials hearing	required pri	or to public	
	Decreases revenues or increases expenditu	res without	balancing budget	
	Budget required			
	Statement of fiscal impact required			
	Ordinance creating a new board requires report for public hearing	detailed Cou	nty Manager's	
	No committee review			
	Applicable legislation requires more than 3/5's, unanimous) to approve	a majority v	ote (i.e., 2/3's,	
***************************************	Current information regarding funding so balance, and available capacity (if debt is			·

Approved	Mayor	Agenda Item No. 8(L) (1)
Veto		4-3-12
Override		

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CONVEYANCE OF NON-EXCLUSIVE EASEMENTS TO COMCAST OF MIAMI, INC., TO CONSTRUCT, USE, MAINTAIN, OPERATE, ALTER, ADD TO, REPAIR, REPLACE, RECONSTRUCT, INSPECT AND REMOVE AT ANY TIME AND FROM TIME TO TIME A BROADBAND COMMUNICATIONS SYSTEM REFERRED TO AS "COMPANY WIRING" IN, ON, OVER, UNDER, AND ACROSS PROPERTY OWNED BY MIAMI-DADE COUNTY LOCATED GENERALLY AT THE INTERSECTION OF NW 75TH STREET AND NW 22ND AVENUE IN CONJUNCTION WITH HOPE VI-PHASE II PROJECT SITES; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE AGREEMENTS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the conveyance of non-exclusive easements to Comcast of Miami, Inc. (Comcast) to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time a broadband communications system referred to as "Company Wiring" in, on, over, under and across Miami-Dade County-owned property located generally at the intersection of NW 75<sup>th</sup> Street and NW 22<sup>nd</sup> Avenue in conjunction with the HOPE VI-Phase II development, as more fully described in the attached Comcast easements, in substantially the form attached hereto and incorporated by reference; authorizes the County Mayor or County Mayor's designee to execute said easements for and on behalf of Miami-Dade County and to exercise all provisions therein; and pursuant to Resolution No. R-974-09, directs the County Mayor or the County Mayor's designee to record the instruments of easement conveyance

Agenda Item No. 8(L) (1) Page No. 2

accepted herein in the Public Records of Miami-Dade County, Florida; directs the County Mayor or the County Mayor's designee to provide a recorded copy of the instruments to the Clerk of the Board within thirty (30) days of the execution of said instruments; and directs the Clerk of the Board to attach and permanently store recorded copies together with this resolution.

The foregoing resolution was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro

Esteban L. Bovo, Jr.

Sally A. Heyman

Jean Monestime Rebeca Sosa

Xavier L. Suarez

Lynda Bell

Jose "Pepe" Diaz

Barbara J. Jordan

Dennis C. Moss

Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed and adopted this 3<sup>rd</sup> day of April, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as to form and legal sufficiency.

100

Terrence A. Smith

#### **Grant of Easement**

(Do Not Type Above This Line-For Recording Purposes Only)

This Grant of Easement (the "Easement") is made and entered into this day of \_\_\_\_\_\_\_ 20\_\_\_, by and between MIAMI-DADE COUNTY (Grantor), a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937 (42 U.S.C. §1437 et seq., as amended), whose address is 73 W. Flagler Street, Suite #242, Miami, FL 33130 its successors and assigns, hereinafter referred to as "Grantor," and Comcast of Miami, Inc., its successors and assigns, hereinafter referred to as "Grantee," whose address is 789 International Parkway, Sunrise, FL 33325.

Grantee and SCOTT CARVER IIB, Limited Partnership, a Florida limited partnership, the lessee of the Grantor, whose address is 720 Olive Street, Suite 2500, St. Louis, MO 63101 are parties to a certain Services Agreement dated \_\_\_\_\_\_\_\_, (the "Agreement") pursuant to which Grantee provides certain broadband communications services to the Premises.

In consideration of One Dollar (\$1.00), Grantor, owner of the property described below, and in accordance with the Agreement, hereby grants to Grantee, its successors and assigns, a non-exclusive easement to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time a broadband communications system (hereinafter referred to as the "Company Wiring") consisting of wires, underground conduits, cables, pedestals, vaults, and including but not limited to above ground enclosures, markers and concrete pads or other appurtenant fixtures and equipment necessary or useful for distributing broadband services and other like communications in accordance to the Agreement, in, on, over, under, across and along that certain real property (the "Premises"), located in, County of Miami-Dade, State of Florida, described as shown in Schedule A follows:

#### See Attached Schedule A - Legal Description

Grantor agrees for themselves and their heirs and assigns that the Company Wiring on the Premises shall be and remain the personal property of the Grantee subject to Section 13 of the Agreement and may not be altered, obstructed or removed without the express written consent of the Grantee except as set forth in the Agreement. The Grantee, and its contractors, agents and employees shall have the right to trim or cut trees and/or roots which may endanger or interfere with said Company Wiring and shall have free access to said Company Wiring and every part thereof, at all times for the purpose of

exercising the rights herein granted; provided, however, that in making any excavation on said Premises of the Grantor, subject to Section 1 of the Agreement, the Grantee shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the area to as near the same condition as it was prior to such excavation as is practical.

This Easement shall run with the land for so long as Grantee, its successors or assigns provides broadband service to the Premises and for a period of sixty (60) days thereafter. The parameters of the easement granted to Grantee at the Premises shall be limited to those exterior areas of the Premises actually occupied by the Company Wiring.

WITNESS:	GRANTOR: MIAMI-DADE COUNTY
	By:
Witness Signature	ivanio.
Print Name:	Title:
	Date:
	Attest:
	Attest: Clerk of the Board
	Approved as to form and legal sufficiency
	Ву:
	Terrence A. Smith
	Assistant County Attorney
WITNESS:	GRANTEE:
	Comcast of Miami, Inc.
	Dru
Witness Signature	By: Name: Sharon Desmond
	Title: Senior Vice President of Revenue &
Print Name:	Business Operations

STATE OF)	
COUNTY OF)	SS.
	cknowledged before me this day of by (name), itle) the entity He/che is (nerconally known to
me) or (has presented and did/did not take an oath).	itle), the entity. He/she is (personally known to type of identification) as identification
Witness my hand and official so	eal.
	My Commission Expires:  Acting in the County of
STATE OF PENNSYLVANIA )  COUNTY OF PHILADELPHIA )	SS.
The foregoing instrument was ac	cknowledged before me this day of Charon Desmond, the Senior Vice-President of
Revenue & Business Operations of Opersonally known to me and who did no	Comcast of Miami, Inc. on behalf of the entity,
Witness my hand and official se	al.
	Notary Public
	My Commission Expires:  Acting in the County of Philadelphia
	Acting in the County of Piniadelphia

#### Schedule A Legal Description

See Attached

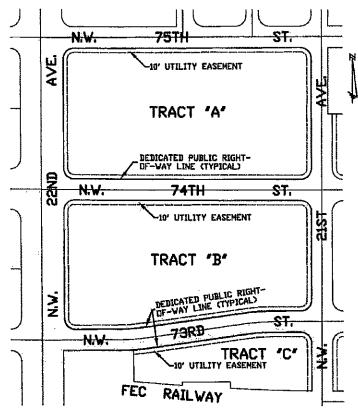
### SCOTT CARVER SECTOR IV UTILITY EASEMENTS LEGAL DESCRIPTION

A ten (10) foot wide strip of land along and parallel with all Public Right-of-Way lines lying in Tracts "A", "B" and "C" of MDPHA SCOTT, according to the plat thereof recorded in Plat Book 168, at Page 90, of the Public Records of Miami-Dade County, Florida. The Southerly and Westerly lines of Tract "C" are not considered Public Right-of-Way. Less therefrom any portion of the above strips of land which may lie under any building.

Note: The above legal description was prepared by Biscayne Engineering Company, Inc.

Prepared for: Beauchamp Company Job No. 03-79868-2 October 28, 2011

Prepared by:
Biscayne Engineering Company, Inc.
Certificates of Authorization
Numbers EB129 and LB129
529 West Flagler Street
Miami, Florida 33130
(305) 324-7671



### SCOTT CARVER SECTOR IV

**EASEMENTS** 

### "MDPHA SCOTT"

PLAT BOOK 168, PAGE 90

#### NOTES:

- 1. The attached legal description was prepared by Biscayne Engineering Company, Inc.
- The attached SKETCH TO ACCOMPANY LEGAL DESCRIPTION is not valid without the signature and original raised seal of a Florida Licensed Survey & Mapper.

## LEGAL DESCRIPTION SCALE: 1" = 200'

TO ACCOMPANY

#### LEGAL DESCRIPTION:

A ten (10) foot wide strip of land along, and parallel with, all Public Right-of-Way lines in Tracts A, B and C, of MDPHA SCOTT, according to the plat thereof recorded in Plat Book 168, at Page 90, of the Public Records of Miami-Dade County, Florida. The Southerly and Westerly lines of Tract "C" are not considered Public Right-of-Way. Less therefrom any portion of the above strips of land which may lie under any building.

October 28, 2011 Job No. 03-79868

Prepared by:
Biscayne Engineering Company, Inc.
Certificates of Authorization
Numbers EB129 and LB129
529 West Flagler Street
Miami, Florida 33130
(305) 324-7671

WE HEREBY CERTIFY: that the attached SKETCH TO ACCOMPANY LEGAL DESCRIPTION was prepared under our direction and complies with the Minimum Technical Standards adopted by the Florida Board of Professional Surveyors and Mappers in Chapter 5117, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

BISCAYNE ENGINEERING COMPANY, INC.

Ву:

Robin D. Teagarden, Jr., for the firm Professional Surveyor & Mapper No. LS2354 State of Florida

2116-SS-11

# SCOTT CARVER, SECTOR CARVER UTILITY EASEMENTS LEGAL DESCRIPTION

A ten (10) foot wide strip of land along, and parallel with, all Public Right-of-Way lines lying within Tracts "A", "B" & "C", MDPHA CARVER, according to the plat thereof recorded in Plat Book 168, at Page 91, of the Public Records of Miami-Dade County, Florida. The Southerly line of Tract "B" and the North line of Tract "A" are not considered Public Right-of-Way. Less therefrom any portion of the above strips of land which may lie under any building.

#### NOTES:

- 1. The above legal description was prepared by Biscayne Engineering Company, Inc.
- The bearings are based on an assumed direction of S01°44′09"E along the centerline of N.W. 19<sup>th</sup> Avenue between N.W. 73<sup>rd</sup> Street and N.W. 74<sup>th</sup> Terrace as shown on MDPHA CARVER, Plat Book 168, Page 91, Public Records of Miami-Dade County, Florida.

October 13, 2011 Job No. 03-79868.1

Prepared by:
Biscayne Engineering Company, Inc.
Certificates of Authorization
Numbers EB129 and LB129
529 West Flagler Street
Miami, Florida 33130
(305) 324-7671

## SECTOR CARVER MDPHA CARVER





#### LEGAL DESCRIPTION:

A ten (10) foot wide strip of land along, and parallel with, all Public Right-of-Way lines lying within Tracts "A", "B" & "C", MDPHA CARVER, according to the plat thereof recorded in Plat Book 168, at Page 91, of the Public Records of Miami-Dade County, Florida. The Southerly line of Tract "B" and the North line of Tract "A" are not considered Public Right-of-Way. Less therefrom any portion of the above strips of land which may lie under any building.

#### NOTES:

- 1. The legal description was prepared by Biscayne Engineering Company, Inc.
- Tracts "A", "B" and "C" are as shown on the plat MDPHA CARTER, recorded in Plat Book 168, at Page 91, of the Public Records of Miami-Dade County, Florida.
- The buildings shown are being constructed as part of the Scott/Carver, Sector Carter project.
- The bearings are based on an assumed direction of S01°44'09"E along the centerline of N.W. 19th Avenue between N.W. 73rd Street and N.W. 74th Terrace as shown on MDPHA CARVER, Plat Book 168, Page 91, Public Records of Miami-Dade County, Florida.
- The attached SKETCH TO ACCOMPANY LEGAL DESCRIPTION is not valid without the signature and original raised seal of a Florida Professional Surveyor & Mapper.

#### CERTIFICATION:

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BISCAYNE ENGINEERING COMPANY, INC.

Ву:

Robin D. Teagarden, Jr, for the firm Professional Survey & Mapper No. LS2354 State of Florida

Prepared for: Beauchamp Construction Co. Job No. 03-79868.1 October 13, 2011

Prepared by:
Biscayne Engineering Company, Inc.
Certificates of Authorization
Numbers EB129 & LB129
529 West Flagler Street
Miami, Florida 33130
(305) 324-7671

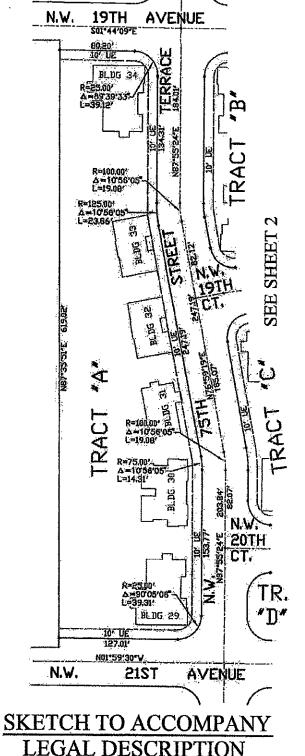
ABBREVIATIONS:

BLDG = Building

TR. = Tract

UE = Utility Easement

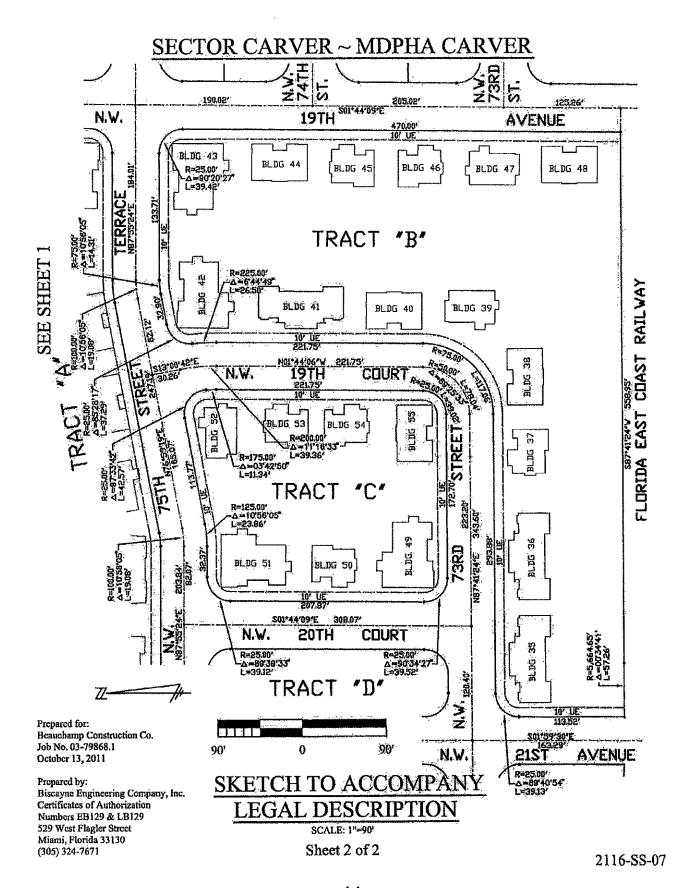
Contorline = Contorline



SCALE: 1"=90"

Sheet 1 of 2

2116-SS-07



#### **Grant of Easement**

(Do Not Type Above This Line-For Recording Purposes Only)

This Grant of Easement (the "Easement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_ by and between MIAMI-DADE COUNTY (Grantor), a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937 (42 U.S.C. §1437 et seq., as amended), whose address is 73 W. Flagler Street, Suite #242, Miami, FL 33130 its successors and assigns, hereinafter referred to as "Grantor," and Comcast of Miami, Inc., its successors and assigns, hereinafter referred to as "Grantee," whose address is 789 International Parkway, Sunrise, FL 33325.

Grantee and SCOTT CARVER IIC, Limited Partnership, a Florida limited partnership, the lessee of the Grantor, whose address is 720 Olive Street, Suite 2500, St. Louis, MO 63101 are parties to a certain Services Agreement dated \_\_\_\_\_\_\_, 20\_\_\_, (the "Agreement") pursuant to which Grantee provides certain broadband communications services to the Premises.

In consideration of One Dollar (\$1.00), Grantor, owner of the property described below, and in accordance with the Agreement, hereby grants to Grantee, its successors and assigns, a non-exclusive easement to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time a broadband communications system (hereinafter referred to as the "Company Wiring") consisting of wires, underground conduits, cables, pedestals, vaults, and including but not limited to above ground enclosures, markers and concrete pads or other appurtenant fixtures and equipment necessary or useful for distributing broadband services and other like communications in accordance to the Agreement, in, on, over, under, across and along that certain real property (the "Premises"), located in, County of Miami-Dade, State of Florida, described as shown in Schedule A follows:

#### See Attached Schedule A - Legal Description

Grantor agrees for themselves and their heirs and assigns that the Company Wiring on the Premises shall be and remain the personal property of the Grantee subject to Section 13 of the Agreement and may not be altered, obstructed or removed without the express written consent of the Grantee except as set forth in the Agreement. The Grantee, and its contractors, agents and employees shall have the right to trim or cut trees and/or roots which may endanger or interfere with said Company Wiring and shall have free access to said Company Wiring and every part thereof, at all times for the purpose of

exercising the rights herein granted; provided, however, that in making any excavation on said Premises of the Grantor, subject to Section 1 of the Agreement, the Grantee shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the area to as near the same condition as it was prior to such excavation as is practical.

This Easement shall run with the land for so long as Grantee, its successors or assigns provides broadband service to the Premises and for a period of sixty (60) days thereafter. The parameters of the easement granted to Grantee at the Premises shall be limited to those exterior areas of the Premises actually occupied by the Company Wiring.

WITNESS:	GRANTOR:
	MIAMI-DADE COUNTY
	By:
Witness Signature	Name:
Print Name:	The.
	Date:
•	Attest: Clerk of the Board
	Clerk of the Board
	Approved as to form and legal sufficiency
	By:
	Terrence A. Smith
	Assistant County Attorney
WITNESS:	GRANTEE:
	Comcast of Miami, Inc.
W. G.	By: Name: Sharon Desmond
Witness Signature	Name: Sharon Desmond
Duint Names	Title: Senior Vice President of Revenue &
Print Name:	Business Operations

STATE OF)	
COUNTY OF	
	cknowledged before me this day of by (name), le), the entity. He/she is (personally known to me) (type of identification) as identification and
Witness my hand and official se	al.
	My Commission Expires: Acting in the County of
STATE OF PENNSYLVANIA ) s	s.
COUNTY OF PHILADELPHIA )	
, 20 , by Si	knowledged before me this day of haron Desmond, the Senior Vice-President of omeast of Miami, Inc. on behalf of the entity, t take an oath.
Witness my hand and official sea	ıl.
	Notary Public
	My Commission Expires:
	Acting in the County of Philadelphia

#### Schedule A Legal Description

See attached

# SCOTT CARVER SECTORS III & IIIA UTILITY EASEMENTS LEGAL DESCRIPTION

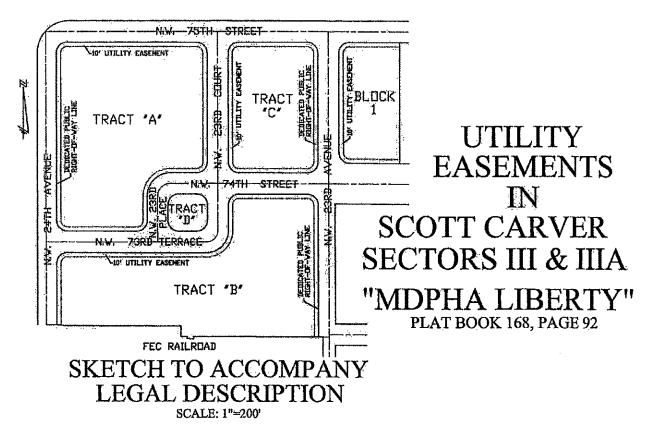
A ten (10) foot wide easement along, and parallel with, all Public Right-of-Way lines lying within Tracts "A", "B", "C" and Block 1, MDPHA LIBERTY, according to the plat thereof recorded in Plat Book 168, at Page 92, of the Public Records of Miami-Dade County, Florida. The Southerly line of Tract "B" and the East line of Block 1 are not considered Public Right-of-Way. Less therefrom any portion of the above strips of land which may lie under any building.

#### NOTES:

 The above legal description was prepared by Biscayne Engineering Company, Inc.

October 13, 2011 Job No. 03-79868

Prepared by:
Biscayne Engineering Company, Inc.
Certificates of Authorization
Numbers EB129 and LB129
529 West Flagler Street
Miami, Florida 33130
(305) 324-7671



#### LEGAL DESCRIPTION:

A ten (10) foot wide easement along, and parallel with, all Public Right-of-Way lines in Tracts A, B, C and Block 1 MDPHA LIBERTY, according to the plat thereof recorded in Plat Book 168, at Page 92, of the Public Records of Miami-Dade County, Florida. The Southerly line of Tract "B" and the East line of Block 1 are not considered Public Right-of-Way. Less therefrom any portion of the above easement which may lie under any building.

#### NOTES:

- 1. The above legal description was prepared by Biscayne Engineering Company, Inc.
- 2. The attached SKETCH TO ACCOMPANY LEGAL DESCRIPTION is not valid without the signature and original raised seal of a Florida Professional Surveyor & Mapper.

WE HEREBY CERTIFY: that the attached SKETCH TO ACCOMPANY LEGAL DESCRIPTION was prepared under our direction and complies with the Minimum Technical Standards adopted by the Florida Board of Professional Surveyors and Mappers in Chapter 5117, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

BISCAYNE ENGINEERING COMPANY, INC.

October 13, 2011 Job No. 03-79868

Prepared by: Biscayne Engineering Company, Inc. Certificates of Authorization Numbers EB129 and LB129 529 West Flagler Street Miami, Florida 33130 (305) 324-7671

By: Robin D. Teagarden, Jr., for the firm

Professional Surveyor & Mapper No. LS2354

State of Florida

2115-SS-03